IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE NINETEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE DR JUSTICE G.YETHIRAJULU**

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**WRIT PETITION No. 21178 of 2004**

Between:

B. Uttanna, S/o.Vemanna, Occu:Conductor,APSRTC,
R/o.Nacheruvu Post and Mandal, Kadiri, Anantapur District.

**..... PETITIONER**

AND

1. The Depot Manager, APSRTC, Kadiri Depot,

Anantapur District.
2. The Divisional Manager, APSRTC, Hindupur, Hindupur

Division, Anantapur District.

**.....RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ, order or orders, or direction more particularly one in the nature of writ of Mandamus declaring the proceedings No.P2/1(119)/02-KDR dated 18-12-2002 of the 1st respondent and the proceedings No. PA/19(157)/2003-DVM-H dated 18-12-2003 of the 2nd respondent as illegal, arbitrary, unjustified, unsustainable, inviolation of principles of natural justice and violative of Articles 14 and 21 of the Constitution

of India and set aside the same and consequently direct the respondents to add one annual increment to the pay of the petitioner.

**Counsel for the Petitioner: MR.A.RAMA RAO**

**Counsel for the Respondent Nos.1&2: MR.P.VINAYAKA SWAMY (Standing Counsel for A.P.S.R.T.C.)**

**The Court at the stage of admission made the following :**

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**THE HONOURABLE DR. JUSTICE G.YETHIRAJULU**

**Writ Petition No. 21178 of 2004**

**ORDER:**

The petitioner is working as a Conductor in the respondents-Corporation. A charge memo was issued to the petitioner for his unauthorised absence on 20.10.2002. The petitioner submitted his explanation on 13.12.2002. The grievance of the petitioner is that the first respondent without considering the circumstances explained by him through his explanation and without conducting any enquiry, passed the impugned order, stopping one annual increment with cumulative effect. The petitioner preferred an appeal before the second respondent, challenging the order of the first respondent, and it was rejected on 18.12.2003. The petitioner, therefore, approached this Court, through this writ petition, to declare the proceedings No.P2/1(119)/02-KDR dated 18.12.2002 of the first respondent and the proceedings No.PA/19(157)/2003-DVM-H dated 18.12.2003 of the second respondent as illegal, arbitrary, unjustified, unsustainable, in violation of principles of natural justice and violative of Articles 14 and 21 of the Constitution of India and set aside the same and consequently direct the respondents to add one annual increment to the pay of the petitioner.

2. The petitioner contends that the punishment imposed on him is a major penalty and it cannot be imposed without conducting any enquiry. Therefore, it amounts to violation of the rules as well as the principles of natural justice. The respondents did not place any material to show whether any enquiry was conducted subsequent to the explanation filed by the petitioner. In the absence of such material, it has to be

held that the respondents failed to follow the procedure prescribed under the rules and regulations. Therefore, the impugned orders are not sustainable under law.

3. Having regard to the facts and circumstances of the case, I am inclined to modify the punishment of stoppage of one increment with cumulative effect imposed on the petitioner into one of stoppage of one increment without cumulative effect.

4. The writ petition is, accordingly, disposed of. No order as to costs.

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**Dr.G.YETHIRAJULU, J**

**Dated: 19th November, 2004.**

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ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Depot Manager, A.P.S.R.T.C., Kadiri Depot, Ananthapur District.
2. The Divisional Manager, A.P.S.R.T.C., Hindupur, Hindupur Division, Ananthapur District.
3. Two C.D. copies.